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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/716,334	11/18/2003	Edward J. Suchocki	47089-00050USPT	5219
30223	7590	07/25/2006	EXAMINER	
JENKENS & GILCHRIST, P.C. 225 WEST WASHINGTON SUITE 2600 CHICAGO, IL 60606				HARPER, TRAMAR YONG
		ART UNIT		PAPER NUMBER
				3714

DATE MAILED: 07/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/716,334	SUCHOCKI, EDWARD J.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Tramar Harper	3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 18 November 2003.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-26 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-26 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date 02/20/04
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.  
 5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_.

**DETAILED ACTION*****Claim Objections***

Claim 24 objected to because of the following informalities: Claim 24 is directed towards further limiting “control behavior” and is dependent on independent Claim 19. Claim 19 excludes the limitation, “control behavior”. Examiner contends that Claim 24 should depend on Claim 23, which includes “control behavior” of a “dynamic control area”. Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 1, 8-10, 15, 19, and 23-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Giobbi (6,203,428).**

**Claim 1:** Giobbi discloses a video gaming machine that comprises a visual depiction of a game on a video screen; a touch screen interface overlaid upon the video screen; and a dynamic control area for user touch inputs relative to game play (Abstract, Fig. 2).

**Claim 8-10:** Giobbi discloses a video gaming machine that further comprises a processor for controlling game play and is responsive to the game control buttons for operating the gaming machine (Col. 2: 21-24). The game control

buttons are displayed on the video screen (Fig. 1). The gaming machine presents the results of the dynamic touch control. For example, if a user touches the stack tab (82) and drags the finger along the touch screen to select a desired number of game boards the stack tab begins to vary in size as it is moved along the stack (Col. 4:8-14, Fig. 1). This is interpreted as updated the video representation in response to the dynamic touch control. When the user is done picking the stack size the stack tab returns to an initial inactive state. It is conventional in the art for touch screen inputs to return to an initial inactive state after use.

**Claim 15:** Giobbi discloses that if a user touches the stack tab (82) and drags the finger along the touch screen to select a desired number of game boards the stack tab begins to vary in size as it is moved along the stack (Col. 4:8-14, Fig. 1).

**Claim 19:** Giobbi discloses a gaming device comprising of a touch screen interface overlaying a presentation medium and at least a portion of the touch screen interface overlaying a dynamic control area having an animation representation of a control interface (Abstract, Fig. 1 & 2). For example, if a user touches the stack tab (82) and drags the finger along the touch screen to select a desired number of game boards the stack tab begins to vary in size as it is moved along the stack (Col. 4:8-14, Fig. 1). Giobbi discloses a video gaming machine that further comprises a processor for controlling game play and is responsive to the game control buttons for operating the gaming machine (Col. 2: 21-24). Fig. 3 illustrates the microprocessor which implements the functions of

the gaming machine and includes output/input function. It further includes a digital processor and other electronic components such as display drivers and graphics chips for controlling the gaming machine (Col. 6:14-20).

**Claims 23-25:** Giobbi discloses a video gaming machine that further comprises a processor for controlling game play and is responsive to the game control buttons, which includes touch screen inputs, for operating the gaming machine (Col. 2: 21-24). The touch screen provides inputs to the gaming machine from the player and the touch screen provides visual output, such as visual depiction of buttons (Fig. 2), to the player from the gaming machine (Col. 6: 24-28). Thus, making the processor responsible for implementing or controlling such functions. The processor outputs available game control buttons and their control behavior information or function via the touch screen (Fig. 2). The dynamic control area further includes accepting player inputs relative to directional and velocity components (Fig. 2 *directional components*, Fig. 1-*stack stab description as stated above*).

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 3-7, 11-14, 16-18, 20-22, & 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Giobbi (6,203,428) in view of Kelly (5,882,258).**

**Claims 3-7, 11-14, 16-18, 20-22, & 26:** Giobbi teaches all the limitations as stated above and further teaches the use of game control buttons or indicators on a touch screen for purposes of making it easier for less experienced players to control the game, which would increase player's enjoyment and encourage further game play. Giobbi teaches that game control buttons on the housing on the game machine are used by the experienced players to promote faster game play, increase players' enjoyment, and possibly increase players' earnings (Col. 3:55-61, Fig. 1, Fig. 2 (*directional controls*)). Giobbi excludes the use of input devices such as joysticks and trackballs. Kelly teaches that gaming controlling devices such as buttons, mouse, dials, joystick controls, trackballs, and speech inputs devices are used by a player or user to provide game input to influence game events during a game process (Col. 4:58-67). It would have been obvious to one of ordinary skill to provide game control input devices such as trackballs and joysticks, as taught by Kelly, on a touch screen interface, as taught by Giobbi, to provide ease of use for novice players or users and increase player enjoyment.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The USPreGrant Pub of Gillespie (2005/0024341), Colin

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(2002/0119813), and Geaghan (2003/0067447) all teach similar structure devices relative to touch screen inputs and game device inputs.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tramar Harper whose telephone number is (571) 272-6177. The examiner can normally be reached on 7:30am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on (571) 272-6788. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

TH

07/17/06  
  
JOHN M. HOTALING, II  
PRIMARY EXAMINER